

Reprinted

FILED FEB 20 1992

SENATE FILE 2187

BY COMMITTEE ON JUDICIARY
Approved (p. 425)

(SUCCESSOR TO SSB 2114)

Passed Senate, Date 3/10/92 (p. 672) Passed House, Date 3/30/92 (p. 925)
Vote: Ayes 45 Nays 0 Vote: Ayes 96 Nays 4
Approved April 7, 1992

A BILL FOR

57821 An Act relating to the distribution and announcement of
2 information pertaining to the average length of actual
3 incarceration of persons convicted of committing aggravated
4 misdemeanors and felonies.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SENATE FILE 2127

S-5122

- 1 Amend Senate File 2187 as follows:
- 2 1. Page 1, by striking lines 1 through 9.
- 3 2. Page 1, line 17, by inserting after the word
- 4 "time" the following: ", work credits, and program
- 5 credits".
- 6 3. Page 1, by striking lines 20 through 31, and
- 7 inserting the following:
- 8 "c. In the case of multiple sentences, whether the
- 9 sentences shall be served consecutively or
- 10 concurrently."
- 11 4. By striking page 1, line 32 through page 2,
- 12 line 31.
- 13 5. Title page, line 1, by striking the words
- 14 "distribution and".
- 15 6. Title page, by striking lines 2 and 3, and
- 16 inserting the following: "information by the court at
- 17 the time of sentencing of persons convicted of
- 18 committing aggravated".
- 19 7. By renumbering, relettering, redesignating,
- 20 and correcting internal references as necessary.

By RALPH ROSENBERG
LINN FUHRMAN

S-5122 FILED MARCH 2, 1992

Adopted 3/10 (p. 672)

576 1 Section 1. Section 901.3, Code Supplement 1991, is amended
2 by adding the following new unnumbered paragraph:

3 NEW UNNUMBERED PARAGRAPH. If the defendant has been
4 convicted of an aggravated misdemeanor or a felony, the
5 investigation shall include in the presentence investigation
6 report information regarding the average length of actual
7 incarceration for the offense involved, as contained in the
8 annual summary provided by the board of parole pursuant to
9 section 904A.4.

10 Sec. 2. Section 901.5, Code 1991, is amended by adding the
11 following new subsection:

12 NEW SUBSECTION. 9. If the defendant is being sentenced
13 for an aggravated misdemeanor or a felony, the court shall
14 publicly announce the following:

15 a. That the defendant's term of incarceration may be
16 reduced by as much as half of the maximum sentence because of
544 17 statutory good conduct time.

18 b. That the defendant may be eligible for parole before
19 the sentence is discharged.

20 c. The average length of actual incarceration for the
21 offense, as included in the presentence investigation report
22 from information contained in the annual summary provided by
23 the board of parole pursuant to section 904A.4. The court
24 shall further announce that the defendant may serve more or
25 less time than the average for the offense.

26 d. That any announcement regarding the average length of
27 actual incarceration for the offense shall not create an
28 expectation regarding the length of time the individual
29 defendant shall serve, but shall simply state the average
30 length of incarceration by other inmates sentenced for the
31 same offense.

545 32 Sec. 3. Section 901.6, Code 1991, is amended to read as
33 follows:

34 901.6 JUDGMENT ENTERED.

35 If judgment is not deferred, and no sufficient cause is

1 shown why judgment should not be pronounced and none appears
2 to the court upon the record, judgment shall be pronounced and
3 entered. In every case in which judgment is entered, the
4 court shall include in the judgment entry the number of the
5 particular section of the Code and the name of the offense
6 under which the defendant is sentenced and a statement of the
7 days credited pursuant to section 903A.5 shall be incorporated
8 into the sentence. If the offense is an aggravated
9 misdemeanor or a felony, the court shall include in the
10 judgment entry the average length of actual incarceration for
11 the offense, as set forth in the presentence investigation
12 report from information contained in the annual summary
13 provided by the board of parole pursuant to section 904A.4.

14 Sec. 4. Section 904A.4, Code 1991, is amended by adding
15 the following new subsection:

16 NEW SUBSECTION. 9. The board of parole shall provide a
17 summary of the average length of actual incarceration for all
18 public offenses which are aggravated misdemeanors or felonies.
19 The board of parole shall compute the average length of actual
20 incarceration pursuant to section 903A.5 by including time
21 served before or after sentencing or appeal and time served in
22 a state correctional facility. The board of parole shall
23 distribute the summaries to the judicial district departments
24 of correctional services.

25 Sec. 5. Section 905.6, Code Supplement 1991, is amended by
26 adding the following new subsection:

27 NEW SUBSECTION. 9. Distribute the summary of the average
28 length of actual incarceration, as provided annually by the
29 board of parole pursuant to section 904A.4, to all
30 investigators required to prepare presentence investigation
31 reports.

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EXPLANATION

33 The bill provides that the board of parole shall provide a
34 summary of the average length of actual incarceration for all
35 public offenses which are aggravated misdemeanors and

1 felonies. The bill requires the board of parole to compute
2 the average length of actual incarceration by including both
3 time served before or after sentencing appeal and time served
4 in a state correctional facility. The bill also requires the
5 board of parole to distribute the summaries to the judicial
6 district departments of correctional services. In addition,
7 an investigator preparing a presentence investigation report
8 must include the information from the summary in the report if
9 the defendant is being sentenced for an aggravated misdemeanor
10 or a felony.

11 The bill requires the court to publicly announce a number
12 of items at the time of sentencing if the defendant has
13 committed an aggravated misdemeanor or a felony, including the
14 possible reduction of sentence due to good conduct time, the
15 possibility of parole, the average length of actual
16 incarceration for the offense, and the fact that the
17 individual defendant may serve a sentence which is longer or
18 shorter. The bill requires the court to include the average
19 length of actual incarceration for the offense in the judgment
20 entry.

21 The bill also provides that the director of a judicial
22 district department of correctional services shall provide the
23 summaries of the average length of actual incarceration to
24 investigators preparing presentence investigation reports.

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SENATE FILE 2187
FISCAL NOTE

A fiscal note for Senate File 2187 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2187 requires the Parole Board to provide a summary of the average length of the actual incarceration for all public offenses which are aggravated misdemeanors and felonies. The Parole Board is required to distribute summaries of the average length of actual incarceration to the 8 Community Based Corrections (CBC) District Departments. When CBC staff prepare a presentence investigation report for those offenders being sentenced for an aggravated misdemeanor or a felony, the average length of actual incarceration must be included. The courts are required to publicly announce a number of items at the time of sentencing for offenders convicted of aggravated misdemeanors or felonies, including the possible reduction of sentence due to good conduct time, the possibility of parole, the average length of incarceration for the offense, and the fact that an individual defendant may serve a sentence which is longer or shorter than average.

Assumptions

1. Offenders sentenced for aggravated misdemeanors or certain felonies may be sentenced and incarcerated in county jails or the State prison system.
2. The Department of Corrections' mainframe computer only contains information for offenders sentenced to the State.
3. No State agency has information regarding the average length of incarceration in local jails.
4. The Parole Board calculates the average length of incarceration only for those State prison inmates who are being considered for parole or work release.
5. There will be additional costs for data processing and increased workloads on Parole Board staff.

Fiscal Impact

The fiscal impact of Senate file 2187 is estimated to range from \$5,000 to \$10,000 for increased data processing costs and staff time for the Parole Board.

Sources: Parole Board
Department of Corrections
Department of Human Rights
Judicial Department

(LSB 5286sv, BAL)

FILED FEBRUARY 25, 1992

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 2187
FISCAL NOTE

A fiscal note for Senate File 2187 as amended and passed by the Senate is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2187 as amended and passed by the Senate requires the court to publicly announce a number of items at the time of sentencing for offenders convicted of aggravated misdemeanors or felonies. The courts are required to announce: that the defendant's term of incarceration may be reduced because of good conduct time, work credits, and program credits; that the defendant may be eligible for parole before the sentence is discharged; and, in the case of multiple sentences, whether the sentences are to be served concurrently or consecutively.

Senate File 2187 as amended and passed by the Senate has no fiscal impact.

Source: Judicial Department

(LSB 5286sv.2, BAL)

FILED MARCH 10, 1992

BY DENNIS PROUTY, FISCAL DIRECTOR

Use Jud & Law Ent. 3/11, No Pass 3/24

SENATE FILE 2187
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 2114)

(AS AMENDED AND PASSED BY THE SENATE MARCH 9, 1992)

- _____ - New Language by the Senate
- * - Language Stricken by the Senate

Passed Senate, Date 3/9/92 (p. 672) Passed House, Date 3/30/92 (p. 925)
 Vote: Ayes 45 Nays 0 Vote: Ayes 96 Nays 4
 Approved April 7, 1992 (p. 1269)

A BILL FOR

* 1 An Act relating to the announcement of information by the court
 2 at the time of sentencing of persons convicted of committing
 3 aggravated misdemeanors and felonies.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2187

* 1 Section 1. Section 901.5, Code 1991, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 9. If the defendant is being sentenced
4 for an aggravated misdemeanor or a felony, the court shall
5 publicly announce the following:

6 a. That the defendant's term of incarceration may be
7 reduced by as much as half of the maximum sentence because of
8 statutory good conduct time, work credits, and program
9 credits.

10 b. That the defendant may be eligible for parole before
11 the sentence is discharged.

12 c. In the case of multiple sentences, whether the
13 sentences shall be served consecutively or concurrently.

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SENATE FILE 2187

H-5535

1 Amend Senate File 2187, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 1, by inserting before line 1 the
4 following:
5 "Section 1. Section 321J.2, subsection 2,
6 paragraph c, Code 1991, is amended to read as follows:
7 c. A class "D" felony for a third offense and each
8 subsequent offense and shall be imprisoned in the
9 county jail for a determinate sentence of not more
10 than one year but not less than thirty days, or
11 committed to the custody of the director of the
12 department of corrections, and assessed a fine of not
13 less than seven hundred fifty dollars. When a person
14 is charged for a third or subsequent offense, the
15 information or indictment containing the charge, as
16 well as a judgment of conviction or entry of a plea of
17 guilty, shall specify the total number of prior
18 convictions, deferred judgements, or pleas of guilty
19 for a violation of this section, as determined
20 pursuant to subsection 3. The minimum jail term of
21 thirty days cannot be suspended notwithstanding
22 section 901.5, subsection 3, and section 907.3,
23 subsection 3, however, the person sentenced shall
24 receive credit for any time the person was confined in
25 a jail or detention facility following arrest. If a
26 person is committed to the custody of the director of
27 the department of corrections pursuant to this
28 paragraph and the sentence is suspended, the
29 sentencing court shall order that the offender serve
30 the thirty-day minimum term in the county jail. If
31 the sentence which commits the person to the custody
32 of the director of the department of corrections is
33 later imposed by the court, all time served in a
34 county jail toward the thirty-day minimum term shall
35 count as time served toward the sentence which
36 committed the person to the custody of the director of
37 the department of corrections. A person convicted of
38 a second or subsequent offense shall be ordered to
39 undergo a substance abuse evaluation prior to
40 sentencing. If a person is convicted of a third or
41 subsequent offense or if the evaluation recommends
42 treatment, the offender may be committed to the
43 custody of the director of the department of
44 corrections, who, if the sentence is not suspended,
45 shall assign the person to a facility pursuant to
46 section 246.513 or the offender may be committed to
47 treatment in the community under the provisions of
48 section 907.6."
49 2. Title page, line 3, by inserting after the
50 word "felonies" the following: ", and requiring

H-5535

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H-5535

Page 2

1 information concerning operating while intoxicated
2 offenses to be included in certain court documents".
3 3. By renumbering and correcting internal
4 references as necessary.

By SIEGRIST of Pottawattamie

H-5535 FILED MARCH 25, 1992

Filed with german 3/30 (p. 424)

ROSENBERG, CH.
CONNOLLY 2/4/92
PATE

SSB 2114
JUDICIARY

SENATE/HOUSE FILE 2187
BY (PROPOSED ATTORNEY GENERAL BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the publication, distribution, and
2 announcement of information pertaining to the average length
3 of actual incarceration of persons convicted of committing
4 aggravated misdemeanors and felonies.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 602.8102, Code Supplement 1991, is
2 amended by adding the following new subsection:

3 NEW SUBSECTION. 134A. Publicly post a summary of the
4 average length of actual incarceration for all aggravated
5 misdemeanors and felonies, as contained in the annual summary
6 provided by the board of parole pursuant to section 904A.4.

7 Sec. 2. Section 901.3, Code Supplement 1991, is amended by
8 adding the following new unnumbered paragraph:

9 NEW UNNUMBERED PARAGRAPH. If the defendant has been
10 convicted of an aggravated misdemeanor or a felony, the
11 investigation shall include in the presentence investigation
12 report information regarding the average length of actual
13 incarceration for the offense involved, as contained in the
14 annual summary provided by the board of parole pursuant to
15 section 904A.4.

16 Sec. 3. Section 901.5, Code 1991, is amended by adding the
17 following new subsection:

18 NEW SUBSECTION. 9. If the defendant is being sentenced
19 for an aggravated misdemeanor or a felony, the court shall
20 publicly announce the following:

21 a. That the defendant's term of incarceration may be
22 reduced by as much as half of the maximum sentence because of
23 statutory good conduct time.

24 b. That the defendant may be eligible for parole before
25 the sentence is discharged.

26 c. The average length of actual incarceration for the
27 offense, as included in the presentence investigation report
28 from information contained in the annual summary provided by
29 the board of parole pursuant to section 904A.4. The court
30 shall further announce that the defendant may serve more or
31 less time than the average for the offense.

32 d. That any announcement regarding the average length of
33 actual incarceration for the offense shall not create an
34 expectation regarding the length of time the individual
35 defendant shall serve, but shall simply state the average

2114

1 length of incarceration by other inmates sentenced for the
2 same offense.

3 Sec. 4. Section 901.6, Code 1991, is amended to read as
4 follows:

5 901.6 JUDGMENT ENTERED.

6 If judgment is not deferred, and no sufficient cause is
7 shown why judgment should not be pronounced and none appears
8 to the court upon the record, judgment shall be pronounced and
9 entered. In every case in which judgment is entered, the
10 court shall include in the judgment entry the number of the
11 particular section of the Code and the name of the offense
12 under which the defendant is sentenced and a statement of the
13 days credited pursuant to section 903A.5 shall be incorporated
14 into the sentence. If the offense is an aggravated
15 misdemeanor or a felony, the court shall include in the
16 judgment entry the average length of actual incarceration for
17 the offense, as set forth in the presentence investigation
18 report from information contained in the annual summary
19 provided by the board of parole pursuant to section 904A.4.

20 Sec. 5. Section 904A.4, Code 1991, is amended by adding
21 the following new subsection:

22 NEW SUBSECTION. 9. The board of parole shall provide a
23 summary of the average length of actual incarceration for all
24 public offenses which are aggravated misdemeanors or felonies.
25 The board of parole shall submit the summary for publication
26 in the Iowa administrative bulletin and the Iowa
27 administrative code on an annual basis. The board of parole
28 shall compute the average length of actual incarceration
29 pursuant to section 903A.5 by including time served before or
30 after sentencing or appeal and time served in a state
31 correctional facility. In addition to providing the summaries
32 for publication, the board of parole shall distribute the
33 summaries to the clerks of the district court and the judicial
34 district departments of correctional services.

35 Sec. 6. Section 905.6, Code Supplement 1991, is amended by

1 adding the following new subsection:

2 NEW SUBSECTION. 9. Distribute the summary of the average
3 length of actual incarceration, as provided annually by the
4 board of parole pursuant to section 904A.4, to all
5 investigators required to prepare presentence investigation
6 reports.

7 EXPLANATION

8 The bill provides that the board of parole shall provide a
9 summary of the average length of actual incarceration for all
10 public offenses which are aggravated misdemeanors and
11 felonies. The bill requires the board of parole to compute
12 the average length of actual incarceration by including both
13 time served before or after sentencing appeal and time served
14 in a state correctional facility.

15 The bill requires the board of parole to submit the
16 summary, which is prepared on an annual basis, for publication
17 in the Iowa administrative bulletin and the Iowa
18 administrative code. The bill also requires the board of
19 parole to distribute the summaries to the clerks of the
20 district court and the judicial district departments of
21 correctional facilities.

22 The bill further requires the clerks of the district court
23 to publicly post the summaries of the average length of actual
24 incarceration for aggravated misdemeanors and felonies. In
25 addition, an investigator preparing a presentence
26 investigation report must include the information from the
27 summary in the report if the defendant is being sentenced for
28 an aggravated misdemeanor or a felony.

29 The bill requires the court to publicly announce a number
30 of items at the time of sentencing if the defendant has
31 committed an aggravated misdemeanor or a felony, including the
32 possible reduction of sentence due to good conduct time, the
33 possibility of parole, the average length of actual
34 incarceration for the offense, and the fact that the
35 individual defendant may serve a sentence which is longer or

2114

1 shorter. The bill requires the court to include the average
2 length of actual incarceration for the offense in the judgment
3 entry.

4 The bill also provides that the director of a judicial
5 district department of correctional services shall provide the
6 summaries of the average length of actual incarceration to
7 investigators preparing presentence investigation reports.

8 BACKGROUND STATEMENT

9 SUBMITTED BY THE AGENCY

10 This proposal is designed to provide greater understanding
11 of Iowa's indeterminate sentencing scheme. Many citizens do
12 not realize that the sentence imposed is a maximum sentence,
13 and that few offenders actually spend the entire time in
14 prison. A clear statement of the average time actually served
15 may serve to reduce any disillusionment about Iowa's current
16 indeterminate sentencing structure.

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b. That the defendant may be eligible for parole before the sentence is discharged.

c. In the case of multiple sentences, whether the sentences shall be served consecutively or concurrently.

SENATE FILE 2187

AN ACT

RELATING TO THE ANNOUNCEMENT OF INFORMATION BY THE COURT AT THE TIME OF SENTENCING OF PERSONS CONVICTED OF COMMITTING AGGRAVATED MISDEMEANORS AND FELONIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 901.5, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 9. If the defendant is being sentenced for an aggravated misdemeanor or a felony, the court shall publicly announce the following:

a. That the defendant's term of incarceration may be reduced by as much as half of the maximum sentence because of statutory good conduct time, work credits, and program credits.

MICHAEL E. GRONSTAL
President of the Senate

ROBERT C. ARNOULD
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2187, Seventy-fourth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved *April 2*, 1992

TERRY E. BRANSTAD
Governor

SF 2187